

In The Matter of Merchant Mariner's Document No. Z-627722-D1
And All Other Seaman Documents
Issued to: HENRY H. FOUNTAIN

Decision and Final Order of the Commandant
United States Coast Guard

APPEAL NO. 1172

HENRY H. FOUNTAIN

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.11-1.

By order dated 11 December 1959, an Examiner of the United States Coast Guard at Galveston, Texas suspended Appellant's seaman documents upon finding him guilty of misconduct. The three specifications found proved allege that while serving as second cook and baker on the United States SS COALINGA HILLS under authority of the document above described, on 17 and 18 June 1959, Appellant was absent from his duties without permission while the ship was at Cadiz, Spain; on 27 September 1959, Appellant failed to perform his duties due to intoxication while at Iskenderum, Turkey.

The hearing was conducted in absentia since Appellant failed to appear after timely notice. The Examiner entered not guilty pleas on behalf of Appellant. The Investigating Officer introduced in evidence pertinent entries from the Shipping Articles and Official Logbook for the voyage.

At the end of the hearing; the Examiner rendered the decision in which he concluded that the charge and three specifications had been proved. An order was entered suspending all documents, issued to Appellant, for a period of twelve months outright plus six months on twelve months' probation. This includes a prior suspension of six months which had been placed on probation by an examiner in February 1959.

Appellant's prior record consists of a probationary suspension in 1952 for disobeying and conspiring to disobey a lawful order of his ship's Master; an outright and probationary suspension in 1956 for failing to obey a lawful order, absence without leave and failing to perform his duties due to intoxication;

OPINION

The uncontested evidence constitutes prima facie proof of the alleged offenses. The statements made by Appellant, which appear in the Official Logbook, admit the offenses. His failure

to appear at the hearing strengthens the impression that he has no defense to these charges; and the only point urged on appeal is that the imposed order is excessive under the circumstances. In view of Appellant's only point urged on appeal is the the order imposed is excessive under the circumstances. In view of Appellant's prior record of similar offenses his tendency to disobey lawful orders, I beleive the contrary is true-- that the Examiner's order was lenient rather than excessive. Appellant has repeatedly been guilty of conduct which tends to undermine the high degree of discipline which is required on board ships. Consequently, the order will not be modified.

ORDER

The order of the Exaimer dated at Galveston, Texas, on 11 December 1959, is AFFIRMED.

J. A. Hirshfield
Rear Admiral, U. S. Coat Guard
Acting Commandant

Dated at Washington, D. C., this 26th day of May, 1960.